

**Notice of Allowability**

Application No.

10/721,404

Examiner

ILIA OUSPENSKI

Applicant(s)

TAMATANI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/23/2007.
2. ☒ The allowed claim(s) is/are 53-59, 64-66, 68 and 69, renumbered 1-12.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 09/383,551.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17:2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### DETAILED ACTION

1. Applicant's remarks, filed 05/23/2007, are acknowledged.

Claims 1 – 52, 60 – 63, and 67 have been cancelled.

**Claims 53 – 59, 64 – 66, and 68 – 69 are pending.**

2. It is noted that claims 53 – 59, 64 – 66, and 68 – 69 have been provisionally rejected on the ground of nonstatutory **obviousness-type double patenting** as being unpatentable over claims 1 – 24 of copending Application USSN 10/800,250 (see Office Action mailed on 07/17/2006). Application USSN 10/800,250 has been abandoned on 06/27/2007, rendering the rejection moot. However, a continuation application USSN 11/752,659 has been filed on 05/23/2007, which contains claims not patentably distinct from the instant claims, as addressed below.

Claims 53 – 59, 64 – 66, and 68 – 69 are subject to a provisional rejection under the judicially created doctrine of **obviousness-type double patenting** as being unpatentable over claims 103 – 108 of copending Application USSN 11/752,659. Although the conflicting claims are not identical, they are not patentably distinct from each other because the two sets of claims are obvious one in view of the other. This would be a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Given that the provisional obviousness-type double patenting rejection over copending USSN 11/752,659 is the only rejection remaining in the instant application, and that USSN 11/752,659 is a later-filed application relative to the instant application,

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this provisional ***rejection is withdrawn*** to permit the instant application to issue first.  
See MPEP 804.

### ***Reasons for Allowance***

3. The following is an Examiner's Statement of Reasons for Allowance:

In view of Applicant's arguments, filed on 05/23/2007, the priority application USSN 09/383,551 is deemed to provide adequate support for the instant claims. Therefore, the rejection of record under 35 USC 103(a) has been withdrawn.

***Claims 53 – 59, 64 – 66, and 68 – 69 are pending and allowed.***

The prior art does not teach or suggest the claimed methods of identifying substances that interact with JTT-1 protein.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

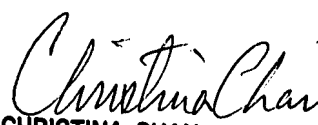
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ILIA OUSPENSKI, Ph.D.

Patent Examiner

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July 3, 2007

  
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SUPERVISORY PATENT EXAMINER  
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